



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann

AUSTIN 11, TEXAS

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ATTORNEY GENERAL

Honorable J. M. Rieger
County Attorney
Stephens County
Breckenridge, Texas

Opinion No. 0-1602

Re: Residence of Miss Neita
I. Jackson and the liability
of Stephens County for hos-
pital expenses for her.

Dear Sir:

We have your letter of October 17 on the above subject. We wish to thank you for the citation of authorities which accompanied your letter. The proposition upon which you asked for an opinion is quoted from your letter as follows:

"The Honorable A. J. Morgan, County Judge of Stephens County has asked this writer for an opinion concerning the residence or domicile of Miss Neita I. Jackson; and the liability of Stephens County for hospital expenses for her, while confined in a mental hospital in Washington, D. C. Or whether said county is obligated in law to receive such person from the said hospital and relieve said hospital of her care entirely.

"Miss Neita I. Jackson is a single woman of the age of 29 years; she once lived at Breckenridge for a time, where she had and now has some relatives. She left Breckenridge-Stephens County-about the first of 1935 and went to Dallas, where she also has relatives. It seems that she has no parents living.

"While in Dallas she took Civil Service Examination to work in Post Office in Washington, D. C. She was employed and took position in P. O. in District of Columbia in early part of 1936.

"On March 24, 1937, she was admitted to a Mental Hospital for some derangement of the mind, and remained in the hospital until January, 1938; at which time she

was discharged. When discharged she returned to Texas-Dallas and Stephens Counties.

"She returned to Washington on August 14, 1938 to take up her work; but on the following day, she was again admitted to the same hospital. She is now confined in said hospital.

"Under the law and facts, - At the time this subject was first confined in the hospital, - was she a resident of Stephens County, Texas? Was she such citizen at the second entry into such hospital? Would the law justify the County Judge of Stephens County in certifying that she was at either time mentioned, or at the present time, a citizen of Stephens County, Texas?"

The Federal statute which we believe to be applicable to this situation are Sections 201, 206 and 207 in Volume 24 of the United States Code Annotated, which read:

"201. Admission of indigent insane of District of Columbia. All indigent insane persons residing in the District of Columbia at the time they became insane shall be entitled to the benefits of Saint Elizabeths Hospital. An indigent insane person within the meaning of this section shall be one who is insane and unable to support himself and family, or himself, if he has no family.

"206. Admission of nonresidents of District. Any indigent insane person who did not reside in the District at the time he became insane may be admitted into the hospital at the expense of the District during the continuance of such insane person therein.

"207. Return of nonresident indigent insane. It shall be the duty of the Commissioners of the District of Columbia, so soon as practicable, to return to their places of residence or to their friends all indigent insane

persons not residing in the District at the time they became insane who shall be committed to Saint Elizabeths Hospital to be temporarily cared for, as provided in this chapter, and all necessary expenses incurred by the Commissioners in ascertaining the locality where such persons or their friends belong and in returning them to such locality shall be defrayed by the District of Columbia."

The applicable Texas statutes are Articles 2351, 4279, and 4280, Revised Civil Statutes, 1925, which we likewise quote:

"Art. 2351. Certain Powers Specified. Each commissioners' court shall:

"Provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum, residents of their county, who are unable to support themselves. By the term resident as used herein, is meant a person, who has been a bona fide inhabitant of the county not less than six months and of the State not less than one year."

"Art. 4279. Liability for Maintenance. Where the person of unsound mind or habitual drunkard has no estate of his own, he shall be maintained:

"1. By the husband or wife of such person, if able to do so.

"2. By the father or mother of such person, if able to do so.

"3. By the children and grandchildren of such person, if able to do so.

"4. By the county in which said person has his residence.

"Art. 4280. Expenses of Confinement. The expenses attending the confinement of an insane person shall be

Honorable J. M. Riger, page 4 (0-1602)

paid by the guardian out of the estate of the ward, if he has an estate; and if he has none, such expense shall be paid by the person bound to provide for and support such insane person, and if not so paid, the county shall pay the same."

Whether Stephens County is liable for the hospitalization of Miss Jackson (assuming that she have no estate nor immediate family capable of doing so) depends, of course, on the question of her residence. It is our opinion that you have correctly set out in your letter and brief the law which governs, but the determination of the matter must depend upon fact questions involving the intent of Miss Jackson at various times, which this department is, of course, prohibited from passing on. It is, therefore, our opinion that the question must be decided by the Commissioners' Court of your county upon all available facts.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By /s/ Walter R. Koch
Walter R. Koch
Assistant

By /s/ Grundy Williams
Grundy Williams

APPROVED NOV. 18, 1939

/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE

By BWB
Chairman

GW:FG:cs